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38 **JOINT OMNIBUS RESPONSE OF OFFICIAL COMMITTEE OF EQUITY SECURITY
39 HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC, THE OFFICIAL
40 COMMITTEE OF HOLDERS OF EXECUTORY CONTRACT RIGHTS THROUGH
41 USA COMMERCIAL MORTGAGE COMPANY, AND THE OFFICIAL COMMITTEE
42 OF EQUITY SECURITY HOLDERS OF USA CAPITAL DIVERSIFIED TRUST DEED
43 FUND, LLC TO (1) APPLICATION TO EMPLOY AND RETAIN RAY QUINNEY &
44 NEBEKER P.C. AS COUNSEL FOR THE DEBTORS; (2) APPLICATION BY DEBTOR
45 AND DEBTOR-IN-POSSESSION FOR AUTHORIZATION TO RETAIN AND EMPLOY
46 SCHWARTZER & McPHERSON LAW FIRM AS COUNSEL UNDER GENERAL
47 RETAINER; AND (3) DEBTORS' MOTION FOR ORDER AUTHORIZING (I) THE
48 EMPLOYMENT AND RETENTION OF MESIROW FINANCIAL INTERIM
49 MANAGEMENT, LLC AS CRISIS MANAGERS FOR THE DEBTORS, AND (II) THE
50 DESIGNATION OF THOMAS J. ALLISON OF MESIROW FINANCIAL INTERIM
51 MANAGEMENT, LLC AS CHIEF RESTRUCTURING OFFICER FOR THE DEBTORS
52 AND THE EMPLOYMENT OF CERTAIN TEMPORARY EMPLOYEES. (AFFECTS
53 ALL DEBTORS)**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re: USA COMMERCIAL MORTGAGE COMPANY, Debtor.)	BK-S-06-10725-LBR Chapter 11
In re: USA CAPITAL REALTY ADVISORS, LLC, Debtor.)	BK-S-06-10726-LBR Chapter 11
In re: USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, Debtor.)	BK-S-06-10727-LBR Chapter 11
In re: USA CAPITAL FIRST TRUST DEED FUND, LLC, Debtor.)	BK-S-06-10728-LBR Chapter 11
In re: USA SECURITIES, LLC, Debtor.)	BK-S-06-10729-LBR Chapter 11
Affects)	
<input checked="" type="checkbox"/> All Debtors)	Date: July 25, 2006
<input type="checkbox"/> USA Commercial Mortgage Co.)	Time: 9:30 a.m.
<input type="checkbox"/> USA Securities, LLC)	Place: Courtroom #2
<input type="checkbox"/> USA Capital Realty Advisors, LLC)	
<input type="checkbox"/> USA Capital Diversified Trust Deed)	
<input type="checkbox"/> USA First Trust Deed Fund, LLC)	

JOINT OMNIBUS RESPONSE OF OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC, THE OFFICIAL COMMITTEE OF HOLDERS OF EXECUTORY CONTRACT RIGHTS THROUGH USA COMMERCIAL MORTGAGE COMPANY, AND THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC TO (1) APPLICATION TO EMPLOY AND RETAIN RAY QUINNEY & NEBEKER P.C. AS COUNSEL FOR THE DEBTORS; (2) APPLICATION BY DEBTOR AND DEBTOR-IN-POSSESSION FOR AUTHORIZATION TO RETAIN AND EMPLOY SCHWARTZER & McPHERSON LAW FIRM AS COUNSEL UNDER GENERAL RETAINER; AND (3) DEBTORS' MOTION FOR ORDER AUTHORIZING (I) THE EMPLOYMENT AND RETENTION OF MESIROW FINANCIAL INTERIM MANAGEMENT, LLC AS CRISIS MANAGERS FOR THE DEBTORS, AND (II) THE DESIGNATION OF THOMAS J. ALLISON OF MESIROW FINANCIAL INTERIM MANAGEMENT, LLC AS CHIEF RESTRUCTURING OFFICER FOR THE DEBTORS AND THE EMPLOYMENT OF CERTAIN TEMPORARY EMPLOYEES. (AFFECTS ALL DEBTORS)

TO THE HONORABLE LINDA B. RIEGLE, UNITED STATES BANKRUPTCY JUDGE:

2 The Official Committee of Equity Security Holders of USA Capital First Trust
3 Deed Fund, LLC, the Official Committee of Holders of Executory Contract Rights through USA
4 Commercial Mortgage Company, and the Official Committee of Equity Security Holders of
5 USA Capital Diversified Trust Deed Fund, LLC (collectively, the "Responding Committees")
6 hereby respond (the "Response") to the (1) Application To Employ And Retain Ray Quinney &
7 Nebeker P.C. As Counsel For The Debtors (the "Ray Quinney Application"); (2) Application By
8 Debtor And Debtor-In-Possession For Authorization To Retain And Employ Schwartz &
9 McPherson Law Firm As Counsel Under General Retainer (the "Schwartz Application"); and
10 (3) Debtors' Motion For Order Authorizing (I) The Employment And Retention Of Mesirow
11 Financial Interim Management, LLC As Crisis Managers For The Debtors, And (II) The
12 Designation Of Thomas J. Allison Of Mesirow Financial Interim Management, LLC As Chief
13 Restructuring Officer For The Debtors And The Employment Of Certain Temporary Employees.
14 (the "Mesirow Motion") and respectfully represent as follows:

I. FACTS

16 1. Chapter 11 bankruptcy petitions in each of the five Chapter 11 Cases were
17 filed on April 13, 2006 (the "Petition Date").

1 Schwartz Application. Through the Ray Quinney Application, the Debtors sought an order
 2 authorizing the employment of Ray, Quinney & Nebeker P.C. ("Ray Quinney") as counsel for
 3 the Debtors in the Chapter 11 Cases. The Schwartz Application requested an order authorizing
 4 the employment of Schwartz & McPherson Law Firm ("Schwartz & McPherson" and
 5 together with Mesirow, Allison, the Temporary Employees, and Ray Quinney, the "Debtors'
 6 Professionals") as counsel to the Debtors in the Chapter 11 Cases.

7 4. By order dated April 19, 2006, the Mesirow Motion was granted on an
 8 interim basis (the "Interim Mesirow Order"). The Interim Mesirow Order provides that the
 9 Debtors are authorized to employ Allison as CRO and other employees of Mesirow from the
 10 Petition Date through July 27, 2006, at which time the Court will consider an extension of the
 11 employment of Mesirow and Allison.

12 5. On June 5, 2006, the Court entered orders granting the Ray Quinney
 13 Application (the "Interim Ray Quinney Order") and the Schwartz Application (the "Interim
 14 Schwartz Order") on an interim basis. Specifically, the Interim Ray Quinney Order and the
 15 Interim Schwartz Order respectively provide that the Debtors are authorized to employ Ray
 16 Quinney and Schwartz & McPherson as counsel in the Chapter 11 Cases for the same length of
 17 time as the interim employment of Mesirow and Allison (through July 27, 2006).

18 6. On June 9, 2006, the Debtors filed the "Debtors' Application For
 19 Administrative Order Establishing Procedures For Interim Compensation And Reimbursement
 20 Of Expenses Of Professionals" (the "Interim Compensation Motion"), which is set for hearing on
 21 August 4, 2006. The Interim Compensation Motion proposes procedures for compensating and
 22 reimbursing professionals in the Chapter 11 Cases on a monthly basis.

23 7. The Debtors have informed the Responding Committees that if the Interim
 24 Compensation Motion is granted at the August 4, 2006 hearing, the Debtors' Professionals will
 25 provide to the official committees appointed in the Chapter 11 Cases a statement of their fees and
 26 expenses to date in the Chapter 11 Cases no later than August 11, 2006, which statement will
 27 allocate fees and expenses according to Debtors' estate(s) on account of which such fees and
 28 expenses were incurred. The Debtors have further informed the Responding Committees that

1 thereafter the Debtors' Professionals will provide monthly fee and expense statements that will
 2 allocate fees and expenses on an estate by estate basis.

3 **II. ARGUMENT**

4 **A. The Employment of the Debtors' Professionals Should Be Extended For Only 60
 5 Days Because Significant Conflicts Among The Estates May Still Emerge.**

6 8. In initially considering whether to authorize the employment of the
 7 Debtors' Professionals, the Court voiced its concern that it may be inappropriate to have one set
 8 of professionals represent multiple estates where, as here, significant conflicts may emerge
 9 among the estates. Indeed, this concern, in large part, apparently motivated the Court's decision
 10 to authorize the employment of the Debtors' Professionals on an interim basis rather than for the
 11 duration of the Chapter 11 Cases on the theory that the Court believed that by the end of July
 12 2006, the Court and parties in interest would have a clearer idea of whether significant conflicts
 13 between the estates were on the horizon.

14 9. Just over three months into the Chapter 11 Cases, the potential for
 15 significant conflict among the Debtors' estates remains a likely, if not probable, outcome.
 16 Certain of the Debtors' estates appear to have opposing economic interests that may give rise to
 17 litigation. Even if such conflicting interests do not result in full blown litigation, the Debtors'
 18 Professionals will likely face numerous situations in which they must choose among courses of
 19 action that benefit some Debtors while harming (or at least not maximizing benefit to) other
 20 Debtors.

21 10. Chief among these potentially flammable situations is the Debtors'
 22 anticipated joint plan of reorganization, which the Responding Committees believe will be filed
 23 in the near future. If, upon the filing of the Debtors' plan, it is evident that the plan treats certain
 24 estates more favorably than others, then parties in interest may be forced to move to employ
 25 professionals to represent specific estates. Merely extending the interim employment of the
 26 Debtors' Professionals rather than authorizing their employment for the duration of the Chapter
 27 11 Cases will provide flexibility to parties in interest as well as continue to ensure that the
 28 Debtors' Professionals focus their efforts on not favoring any of the estates over the others.

11. Moreover, as the Chapter 11 Cases move beyond their preliminary stage

1 and into detailed plan discussions and negotiations, the Responding Committees believe that it is
 2 crucial that the Debtors' Professionals are incentivized to proceed expediently so as not to
 3 prolong these cases any further than necessary. In extending the employment of the Debtors'
 4 Professionals by only 60 days, the Court will send a clear message to the Debtors' Professionals
 5 that there can be no delay in reaching the exit of the Chapter 11 Cases, which message cannot
 6 help but serve as a strong incentive to the Debtors' Professionals to administer the Chapter 11
 7 Cases in a prudent yet efficient manner.

8 **B. As A Condition To Extending The Employment Of The Debtors' Professionals,
 9 They Should Be Required To Allocate Their Fees And Expenses To The Estate(s)
 10 On Behalf Of Which Specific Fees And Expenses Were Incurred.**

11 12. While the Chapter 11 Cases are being jointly administered for procedural
 12 purposes, they have not been substantively consolidated. As such, each of the Debtors' estates
 13 continues to be a distinct entity with its own creditors and equity interests.

14 13. Since the inception of the Chapter 11 Cases, the Debtors' Professionals
 15 have rendered substantial services. Presumably, while certain services have been rendered on
 16 account of all of the Debtors, other services have been rendered on account of fewer than all of
 17 the Debtors or even on account of a single Debtor.

18 14. To date, the Debtors' Professionals have not allocated their fees and
 19 expenses according to the Debtor's estate on behalf of which particular fees and expenses have
 20 been incurred. However, the Debtors have informed the Responding Committees that they will
 21 provide an allocation of their fees and expenses to the official committees in the Chapter 11
 22 Cases no later than August 11, 2006 and that fee statements including estate-by-estate allocation
 23 of fees and expenses will continue on a monthly basis for the duration of the employment of the
 24 Debtors' Professionals.

25 15. The continued employment of the Debtors' Professionals should be
 26 conditioned on the provision of monthly fee statements that allocate the fees and expenses of the
 27 Debtors' Professionals by estate. If the Debtors' Professionals are permitted to continue incurring
 28 fees and expenses at the expense of the Debtors' estates but are not required to allocate their fees
 and expenses, certain of the Debtors' estates, to the detriment of their creditors and equity interest

1 holders, may be forced to subsidize the professional fees of other estates, whose creditors and
2 equity interest holders will reap a windfall.

3 16. This allocation issue must be addressed immediately, as the Debtors'
4 Professionals have rendered and are seeking to be able to continue to render substantial services
5 to the Debtors. Given the large volume of services being rendered to the Debtors, any further
6 delay in the commencement of such allocation threatens to impede the ability of the Debtors'
7 Professionals to analyze their fees and expenses so as to retroactively allocate such fees and
8 expenses accurately.

9 17. Furthermore, in order to understand, strategize, and make informed
10 decisions with respect to the Chapter 11 Cases, each estate's creditors and equity security interest
11 holders, need to be informed as to the amount of professional fees being incurred by the
12 particular estate in which they hold an interest. Currently, parties in interest are completely in
13 the dark with respect to each estate's professional fees and expenses, and, therefore, are left to
14 guess as to the net amount that may be available for investors.

15 18. Accordingly, the Responding Committees request that as a condition of
16 the continued employment of the Debtors' Professionals, the Court order the Debtors'
17 Professionals to allocate their fees and expenses to the estate(s) on behalf of which particular
18 services are rendered, with such allocation to begin with the Debtors' fee and expense statement
19 dated August 11, 2006. Furthermore, for the duration of their employment, the Debtors'
20 Professionals should be required to serve such allocation on a monthly basis on the United States
21 Trustee and official committees in the Chapter 11 Cases.

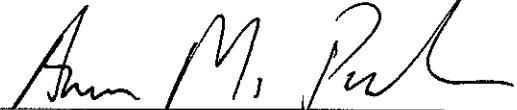
22 **WHEREFORE**, the Responding Committees hereby request that (i) the Court
23 extend the employment of the Debtors' Professionals on an interim basis for no more than 60
24 days through and including September 25, 2006; and (ii) the Court condition any extension of the
25 employment of the Debtors' Professionals in the Chapter 11 Cases on their providing monthly
26 fee statements to the U.S. Trustee and the official committees in these cases beginning on August
27 11, 2006, which statements shall include an estate by estate allocation of fees and expenses.

28

1 Respectfully submitted this 21st day of July, 2006.

2 SUBMITTED BY:

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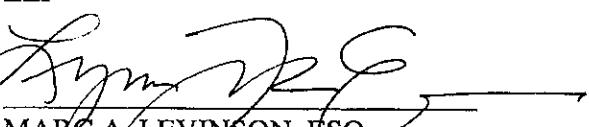
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